

FILED

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MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

No. 15-90085

ORDER

THOMAS, Chief Judge:

Complainant, a debtor in a bankruptcy case and defendant in a related adversary proceeding, alleges that a bankruptcy judge made erroneous rulings and improperly declined to dismiss the adversary proceeding. These allegations relate directly to the merits of the judge’s rulings and must be dismissed. See 28 U.S.C. § 352(b)(1)(A)(ii); In re Charge of Judicial Misconduct, 685 F.2d 1226, 1227 (9th Cir. Jud. Council 1982); Judicial-Conduct Rule 11(c)(1)(B).

Complainant alleges that the judge showed bias in favor of a plaintiff with regard to trial date continuances and motions for reconsideration. However, judges have discretion to proceed with their court calendar as they see fit, and adverse rulings alone are not proof of bias. See In re Complaint of Judicial Misconduct, 631 F.3d 961, 963 (9th Cir. Jud. Council 2011). Complainant alleges that the judge showed “persistent hostility” toward him, but a review of the record belies any claim that the judge treated him in a demonstrably egregious and hostile

manner. See In re Complaint of Judicial Misconduct, 761 F.3d 1097, 1098-99 (9th Cir. Jud. Council 2014); Judicial-Conduct Rule 3(h)(1)(D). Accordingly, these allegations are dismissed as unfounded. See 28 U.S.C. § 352(b)(1)(A)(iii); In re Complaint of Judicial Misconduct, 583 F.3d 598 (9th Cir. Jud. Council 2009); Judicial-Conduct Rule 11(c)(1)(D).

Complainant further alleges that the judge improperly advised the plaintiff (who was proceeding pro se) to consult the clerk of court on how to serve a summons, and improperly took judicial notice of a state court opinion.

Complainant fails to allege any conduct “prejudicial to the effective and expeditious administration of the business of the courts,” and accordingly these charges are dismissed. See In re Complaint of Judicial Misconduct, 726 F.3d 1060, 1062 (9th Cir. Jud. Council 2013) (“Because complainant’s charges wouldn’t constitute misconduct even if true, the complaint is dismissed as groundless”); Judicial-Conduct Rule 11(c)(1)(A).

Finally, complainant alleges that the judge improperly allowed an unlicensed paralegal to represent the plaintiff as counsel. Complainant does not cite to the underlying record or offer any other objectively verifiable proof to support these allegations, which are dismissed as unfounded. See 28 U.S.C.

§ 352(b)(1)(A)(iii); In re Complaint of Judicial Misconduct, 650 F.3d 1370, 1372
(9th Cir. 2011); Judicial-Conduct Rule 11(c)(1)(D).

DISMISSED.